

Applicant: Dhanaraj, et al.  
Application Serial No.: 10/674,516  
Filing Date: September 30, 2003  
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### **REMARKS/ARGUMENTS**

The application has been amended. In particular, claims 1, 30, 36, 50, 54 and 56 have been amended to remove the phrase "or a derivative" therefrom, and to include standard Markush terminology. Also, claim 27 has been amended to remove one of the two occurrences of "copolymers of polyurethane and poly(lactic acid)" therefrom. Also, claim 49 has been canceled, and claims 60-64 have been added, support for which can be found in original claim 3. None of these amendments introduce new matter.

### **Claim Objections**

The Examiner has objected to claims 1, 4-31, 33-36, 38-52, 54 and 56 because of certain informalities. These objections have been addressed in the amendments presented herewith.

### **Claim Rejections Under 35 U.S.C. §112, First Paragraph-Enablement**

The Examiner has rejected claim 49 under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the enablement requirement.

In an effort to advance prosecution of the present application, Applicants have canceled claim 49, thereby obviating this rejection. Applicants reserve the right to pursue the canceled subject matter in a continuation application.

### **Claim Rejections Under 35 U.S.C. §112, Second Paragraph**

The Examiner has also rejected claims 1, 4-31, 33-36, 38-52, 54 and 56 under 35 U.S.C. §112, second paragraph, as allegedly being indefinite. In particular, the Examiner states that the independent claims recite a "derivative" of peptides of Formula (I), and alleges that "derivative" is not defined in the disclosure or the art. He also states that it is not clear what degree of similarity, structural or functional or otherwise, a compound must have with a peptide of

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Formula (I) in order to be considered a “derivative” and therefore embraced within the scope of the claims.

Applicants do not agree, and submit that the meaning of “derivative” is set forth in paragraphs [0039] to [0041] of the application. The peptide of Formula (I) may form a part of a longer peptide or polypeptide. Moreover, fragments or substitution, addition or deletion mutants of the peptide of Formula (I) are encompassed by the present invention. For example, one or more amino acids in the peptide sequence may be substituted with amino acids generally known to be equivalent, as described in paragraph [0039].

However, in order to advance prosecution of the present application, and because claim 3 and new claims 60-64 recite that the peptide component may be part of a longer peptide or polypeptide, the phrase “or a derivative” has been deleted from the independent claims.

Under item 8 of the Office Action mailed June 19, 2006, the Examiner indicates that if the independent claims were to be re-written so as to delete the “derivative” language, then the rejection under 35 U.S.C. §112, second paragraph would be withdrawn. In view of the amendments presented herewith, Applicants request withdrawal of these rejections.

**Claim Rejections Under 35 U.S.C. §102 (b)**

The Examiner has further rejected claims 1, 30, 36, 50, 54 and 56 under 35 U.S.C. §102(b) as allegedly being anticipated by U.S. Patent No. 6,262,017 to Dee, et al. The Examiner alleges that the peptides of Dee, et al. correspond to the “derivative” recited in Applicants’ claims, in view of amino acids in common between peptides of Dee, et al. and the peptides of Formula (I) because Applicants have not defined “derivative”. As an example, the Examiner cites SEQ ID NO: 4 of Dee, et al., which includes three contiguous glycine residues.

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Applicants believe that they have sufficiently defined "derivative" at paragraphs [0039] to [0041] of the application. Applicants also believe that the peptides of Dee, et al. bear no structural similarity to Applicants' peptides of Formula (I), except for having contiguous glycine residues. However, in an effort to address the Examiner's concerns, and because claim 3 and new claims 60-64 recite that the peptide component may be part of a longer peptide or polypeptide, the "derivative" language has been deleted from the independent claims.

Under item 8 of the Office Action mailed June 19, 2006, the Examiner indicates that if the "derivative" language is deleted from the independent claims, then the present anticipation rejection will be withdrawn. In view of the amendments presented herewith, withdrawal of these rejections is respectfully requested.

**Allowable Subject Matter**

The Examiner has allowed claim 59, and states that claims 2, 3, 32, 37, 53, 55 and 57 are objected to as being dependent upon a rejected base claim, but would otherwise be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The Examiner also indicates that, if the "derivative" language is deleted from the independent claims, then the rejections under 35 U.S.C. §112, second paragraph and the anticipation rejection over Dee, et al. would be withdrawn.

Applicants wish to thank the Examiner for these indications. As set forth herein, the independent claims have been amended to remove the "derivative" language. Therefore, an allowance of independent claims 1, 30, 36, 50, 54 and 56, as well as the remaining claims which depend directly or indirectly therefrom is respectfully solicited.

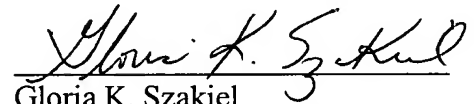
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Summary

Applicants have responded in full to the present Office Action. It is believed that all of the claims of the present invention are allowable in form. Favorable action thereon is respectfully solicited.

Should the Examiner have any questions or comments concerning this Response, he is respectfully invited to contact the undersigned agent at the telephone number set forth below.

Respectfully submitted,



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